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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,732	11/28/2000	Jonathan D. Courtney	SUN1P506/P4151	7770

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EXAMINER
DEMICCO, MATTHEW R

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	Applicant(s)
Office Action Summary		09/724,732	COURTNEY ET AL.
		Examiner	Art Unit
		Matthew R Demicco	2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>02 July 2004</u>.
2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-14 and 16-24* is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-14 and 16-24* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   This action is responsive to an amendment filed 7/2/04. Claims 1-14 and 16-24 are

pending. Claims 1-4 are amended. Claims 23-24 are new. Claim 15 is cancelled; subsequently

the objection to Claim 16 is withdrawn. The objection to the Specification is withdrawn in light

of the amendment.

Response to Arguments

2.   Applicant's arguments filed with respect to Claims 14 and 1 have been fully considered

but they are not persuasive.

Regarding Applicant's argument with respect to Claim 14, Applicant argues that

Hidary does not teach acquiring a listener interface. For clarification, the Examiner's

interpretation of "listener interface" is an interface, such as the control panel of Hidary

(Col. 5, Lines 46-59), which is used by the listener, that is, the user of the device capable

of playing an audio clip downloaded from the Internet (Col. 6, Lines 11-14). Since the

control panel (interface) is operable to allow the user (listener) to select a web page

referenced by a URL to be displayed in the web browser, this clearly reads on the

claimed listener interface providing an interface for a data requester (user of the system)

to request access to synchronized data (web pages synchronized with video content). The

utilization of the control panel, that is, enabling the computer-based receiver station (Col.

4, Lines 18-22) to run software (Col. 5, Lines 3-7) that provides for the display of said

panel to the user, reads on the claimed acquiring of the interface.

Regarding Applicant's argument that the control panel is not a listener interface because the control panel does not function as a listener given even the broadest possible interpretation, the Examiner refers above where the "listener" is interpreted as the user of the system and the interface is the control panel application itself.

Regarding Applicant's argument that Hidary fails to teach acquiring a point of access interface that allows the listener to access synchronized data, the Examiner points out that the JAVA-enabled web browser of Hidary is an interface that allows the listener (user of the system) to access synchronized data (web pages synchronized with video content). Applicant further states that using a web browser to display web content does not teach acquiring a point of access interface for a listener. As it has already been shown, the web browser is operable to download audio clips over the Internet, thereby making it an interface the listener (user) may use as a point of access. Applicant has not furnished any evidence as to why this interpretation is invalid but has merely stated that it is.

Applicant further argues that listening to audio through a web browser does not teach accessing synchronized data though the listener interface. As stated above, the listener interface is the control panel that interfaces with a web browser and the audio data is an audio clip downloaded from the Internet in response to a URL transmitted with video programming and synchronized with video content for display. The Examiner maintains that Hidary does indeed teach accessing synchronized data (web pages synchronized with video content) through a listener interface (control panel for selection

of a URL to retrieve and display) and again points out that Applicant has not stated any

evidence as to why this interpretation is invalid.

Applicant further argues that displaying a web page does not teach or suggest

sending a notification to a data requester to indicate that data is ready for access. Hidary

teaches a system wherein a URL is received by the client and subsequently sent to a

browser that accesses a web site and retrieves a web page for display when predetermined

related video content is displayed in the video window (Col. 5, Lines 3-46). Since the

data (web page) is displayed for user interaction when at a specific time is reached, this

display of the data clearly reads on the claimed notification sent to the data requester

(user of the system) to indicate that the data is ready for access (web page is ready to be

viewed or interacted with). Further, when a URL is received, it is displayed in the control

panel. This too, reads on the claimed notification.

Regarding Applicant's argument with respect to Claim 1, Applicant argues that

the JAVA-enabled browser of Hidary does not teach or suggest an API (i.e.: a

programming interface that can be used by an application program). As is well known in

the art, JAVA is a language by which programming code may be executed to perform a

function. Such a JAVA-enabled web browser, then, has a programming interface that can

execute code within the application to perform extended functions. This clearly reads on

a programming interface that can be used by an application program. Further, Applicant's

Claim 3, as amended, claims the API further including a point of access API. The JAVA-

enabled web browser of Claim 2 also reads on this claimed point of access API, as the

user of the receiver station accesses web content with it.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.   Claims 1-6, 10-11, 14, 19 and 23-24 are rejected under 35 U.S.C. 102(b) as being

anticipated by U.S. Patent No. 5,778,181 to Hidary et al.

Regarding Claim 1, Hidary discloses a receiver (Col. 4, Line 19) suitable for

accessing selected portions of synchronized data that is transmitted by a broadcaster (Col.

1, Lines 61-62) in a broadcasting system (See Figure 2). The synchronized data of Hidary

consists of embedded URLS (Col. 3, Lines 41-46), which are used to retrieve web pages

that correspond to a video presentation. The content of the web page is time stamped

(Col. 3, Lines 64-67) and is synchronized and displayed along with television

programming (Col. 5, Lines 7-12). This reads on the claimed synchronized data accessing

system capable of providing access to synchronized data transmitted by the broadcaster.

Further the system provides an interface (control panel) that can be used by the data

requestor (user) to access the data (Col. 5, Lines 46-59), wherein the data requester can

initiate a request to access the synchronized data through the interface and data is made

available and accessed by the requester through the interface. The interface displays a list

of the URLs that have been received for the user to select in order to view. The web

pages may contain audio clips (Col. 6, Lines 10-13). This reads on the claimed listener

interface (control panel) that determines if synchronized data is available for access (if a

URL has been received), whereby the interface can be used by the data requester (user) to

initiate a request to access the web page data, when the interface determines that

synchronized data is available (URL has been received).

Regarding Claim 2, Hidary discloses a system as stated above in Claim 1 wherein

the interface includes is a JAVA-enabled web browser (Col. 4, Line 64). This reads on

the claimed application programming interface (API).

Regarding Claim 3, Hidary discloses a system as stated above in Claim 2. The

JAVA-based browser that allows a user to display web sites further reads on the claimed

point of access API.

Regarding Claim 4, Hidary discloses a system as stated above in Claim 1 wherein

content is displayed in a video window (Col. 5, Lines 41-46) once the URL has been

received and the data is to be synchronized with video content. Further, the web pages,

referenced by URL are added to the control panel each time a new URL is received (Col.

5, Lines 50-51). This reads on the claimed system wherein the listener interface (control

panel) provides a notification associated with the transmitted synchronized data to the

data requester (user).

Regarding Claim 5, Hidary discloses a system as stated above in Claim 4. The

synchronized data is a web page URL that is used to display a web page in a video

window of web browser. Further, additional URLs related to the broadcast program may

be provided in the list to the viewer (Col. 5, Lines 56-59). This reads on the claimed

notification including other information that can be used by a data requester to access

data.

Regarding Claim 6, Hidary discloses a system as stated above in Claim 5 wherein

the URLs have associated time stamps, which indicate when they are to be displayed

(Col. 3, Lines 64-67). Since the notification, or display of the web page, is based on the

time stamp, this reads on the claimed notification including a timestamp.

Regarding Claim 10, Hidary discloses a system as stated above in Claim 1

wherein the synchronized data accessing system provides information in the form of a

web page as stated above. It is inherent that a web page accesses data in segments. These

segments could be hyperlinks to other web pages, images, frames, tables or any other

method of displaying and arranging information as are well known in the art.

Regarding Claim 11, Hidary discloses a system as stated above in Claim 1

wherein a client system (Col. 6, Lines 26-34) receives broadcast data from a video server

(Col. 1, Lines 64-65) and the Internet via a distribution network (Col. 4, Lines 12-15).

The video server reads on the claimed data provider and the client reads on the data

accessor.

Regarding Claim 14, Hidary discloses a method of accessing synchronized data

transmitted by a broadcaster in a broadcast system as stated above in Claim 1, the method

comprising acquiring an interface (control panel) that provides an interface for a data

requestor (user) to request access to synchronized data (Col. 5, Lines 46-59). Further,

Hidary discloses acquiring a point of access interface (web browser) that allows the user

to access synchronized data (Col. 4, Line 64 – Col. 5, Line 12). The control panel

(listener interface) allows the user to go back and retrieve pages that were already

displayed for display in the web browser (point of access interface). This reads on the

claimed linking of interfaces and accessing synchronized data through the interface via

the point of access interface. Hidary further discloses that a web page may contain audio

data (Col. 6, Lines 11-14). This reads on the user being a listener as claimed.

Regarding Claim 19, see Claim 14 above. Hidary further discloses implementing

the system on a computer device (Col. 4, Lines 19-33). It is inherent that there must be

computer program code (Col. 5, Lines 3-7) running on the computer to implement the

functions of the system.

Regarding Claim 23, Hidary discloses a receiver as stated above in Claims 1, 2, 4

and 14. Further, the JAVA functionality of the browser is an API, as stated above, that

can be used by an application program (browser, or control panel, for instance) to request

access to a selected portion of synchronized data that is transmitted by a broadcaster in a

broadcasting system (request access to web page content based on the URL transmitted).

Further disclosed is a listener interface (control panel) as stated above, which is capable

of receiving URLs from the broadcast and displaying them. This reads on the claimed

listening to determine whether a selected portion of the synchronized data has been

transmitted and sending notification when the data becomes available. Once the data

become available, the web browser is then able to request and display the web page for

the user. This reads on the claimed allowing the application program to initiate a request

to access a first selected portion of the synchronized data. The control panel waits for the

URLs to arrive before they can be selected and subsequently requested for access by the

web browser. This act of waiting for URLs transmitted in the video programming reads

on the claimed initiating a first listener and waiting for a first notification (URL to arrive)

that indicates the first selected portion of data is available. Further, a point of access

interface (web browser) is disclosed above. When a URL arrives in the control panel, it is

operable to be selected and sent to the web browser for retrieval. This reads on the

claimed linking the first listener to the point of access interface, thereby allowing the

application program to access the first selected portion of synchronized data through the

first point of access after the application program receives the first notification.

Regarding Claim 24, see Claims 23 and 14 above.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

6.   Claims 7-9, 12-13, 16-18 and 20-22 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Hidary et al.

Regarding Claim 7, Hidary discloses a system as stated above in Claim 5. What is

not disclosed, however, is that the notification includes a length of data indicator that

indicates the length of data. Official Notice is hereby taken that it is well known in the art

that digital transmission protocols often include a length of data indicator. Further, it is

well known that web browsers often display a data length progress indicator when

displaying a screen. Therefore, it would have been obvious to one having ordinary skill in

the art at the time the invention was made to modify the system of Hidary with the data

length indicator of the well-known prior art in order to allow the user to see how large the

data segment is and how much time will be required to complete the transaction.

Regarding Claim 8, Hidary discloses a system as stated above in Claim 5. Hidary

further discloses that the notification includes a timestamp as stated above in Claim 6.

Hidary in view of the well-known prior art further disclose that the notification includes a

data length indicator as stated above in Claim 7.

Regarding Claims 9 and 12-13, Hidary discloses a system as stated above in

Claim 1. What is not disclosed, however, is that the system provides error-handling

information or that the data accessor can send a request to resynchronize data. Official

Notice is hereby taken that it is well known in the art that digital transmission protocols

often include error handling. Typically, if a corrupted data packet is received, a request to

retransmit the data is sent. This reads on the claimed request to resynchronize data.

Further, since browsing the web requires bi-directional communication, it is inherent that

the data provider, when receiving an error from the accessor, may send an error

notification to the accessor. Therefore, it would have been obvious to one having

ordinary skill in the art at the time the invention was made to modify the system of

Hidary with the error handling of the well-known prior art in order to prevent the display

of corrupted data.

Regarding Claim 16, Hidary discloses a system as stated above in Claim 9. As

stated above, a web page is displayed when synchronized data is received based on a time

stamp. This display of a web page reads on the claimed notification to a data requestor indicating data is ready for access. Further, as stated above, when received, the URL is displayed in the control panel. This too, reads on the claimed notification.

Regarding Claim 17, Hidary discloses a system as stated above in Claim 16. Hidary further discloses that the notification includes a timestamp as stated above in Claim 6. Hidary in view of the well-known prior art further disclose that the notification includes a data length indicator as stated above in Claim 7.

Regarding Claim 18, Hidary discloses a system as stated above in Claim 9. Hidary in view of the well-known prior art disclose sending an error notification to the data requester as stated above in Claim 13.

Regarding Claim 20, see Claim 15 above.

Regarding Claim 21, see Claim 8 above.

Regarding Claim 22, see Claim 13 above.

Conclusion

7.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Matthew R Demicco whose telephone number is (703) 305-8155.

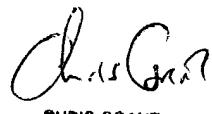The examiner can normally be reached on Mon-Fri, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chris Grant can be reached on (703) 305-4755. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mrd
December 15, 2004

CHRIS GRANT
PRIMARY EXAMINER